

LFC Requester:**Connor Jorgensen****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:***Original** X **Amendment** **Correction** **Substitute** **Date** January 24, 2016**Bill No:** HB 135**Sponsor:** Jeff Steinborn**Agency Code:** 305**Short** Lobbyist Employers &**Person Writing** Caroline Manierre**Title:** Reporting**Phone:** 505-827-6079 **Email** cmanierre@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

HB 105

HB 136

HB 137

HB 80

SB 124

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

House Bill 135 adds a new section to the Lobbyist Regulation Act. The section requires that a lobbyist's employer who incurs lobbying expenses file estimated lobbying expense reports with the secretary of state. The reports are due no later than January 15 and May 1 of each year and any time after the initial employment or retention of a lobbyist. The new section includes a specific definition of "lobbying expenses" for purposes of the new section.

House Bill 135 also amends the Lobbyist Regulation Act to require that lobbying expense reports be posted on the secretary of state's lobbyist disclosure website and to require the posting of lobbyist registrations, lobbying expense reports and expenditure statements to be posted on the website within forty-eight hours of receipt, unless it is during the legislative session, in which case expenditure statements and lobbying expense reports must be posted within twenty-four hours.

FISCAL IMPLICATIONS: None

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES:

House Bill 135 requires that lobbyist employers estimate lobbying expenses. This includes a lobbyist's "living expenses, expenses for maintaining an office and other expenses for maintaining an office and other expenses incidental to lobbying" that are reimbursed by the lobbyist's employer. Though the bill specifically defines "lobbying expenses" for purposes of the lobbying expense reporting requirement, the Lobbyist Regulation Act also defines "expenditure" for purposes of the Act as "a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value but *does not include* a lobbyist's own personal living expenses and the expenses incidental to establishing and maintaining an office in

connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer[.]” NMSA 1978, § 2-11-2(B) (emphasis added). The current Lobbyist Regulation Act requires expenditure reports to be filed on the same days as the lobbying expense reports that would be required by House Bill 135. If House Bill 135 is enacted, lobbyist’s employers may be faced with filing two similar reports under the Lobbyist Regulation Act, each of which must comply with a different definition of covered expenses or expenditures. Even if the conflicting requirements can be harmonized, they may still result in confusion among lobbyist’s employers trying to comply with the Act.

PERFORMANCE IMPLICATIONS: N/A

ADMINISTRATIVE IMPLICATIONS: N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

- House Bill 105 deals with the electronic reporting requirements for campaign and lobbyist reporting. Both House Bill 105 and 135 amend 2-11-6 differently, primarily, House Bill 105 amends language in the expenditure report requirements from “the cumulative total of the expenditures made or incurred by the employer or lobbyist” to “each expenditure of seventy-five dollars (\$75.00) or more incurred by the employer or lobbyist.” Considering the breadth of the reporting requirements that would be imposed under the new section in House Bill 135, it seems like this limitation could create conflict between the bills.
- House Bill 136 creates minor changes to the Lobbyist Regulation Act, and while these changes do not conflict with House Bill 135, they do add additional language to the Act not included in House Bill 135.
- House Bill 137 adds a clause to the expenditure report requirement, stating that the cumulative total for each expenditure incurred shall be “listed separately by each recipient.” While not in direct conflict, this is not a requirement contemplated under House Bill 135.
- House Bill 80 and Senate Bill 124 do not necessarily conflict with House Bill 135, but would amend the language in the Campaign Reporting Act to change from “secretary of state” to “state ethics commission.”

TECHNICAL ISSUES:

The current Lobbyist Regulation Act also addresses electronic authentication of expenditure reports under the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act, but includes citations to those two acts which House Bill 135 does not although it references the same acts. It might be helpful to include those citations in this proposed section as well.

OTHER SUBSTANTIVE ISSUES: N/A

ALTERNATIVES: None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL: Status Quo

AMENDMENTS: None